


cliffdweller productions
llc

June 22, 2009

Received & Inspected

JUN 01 2009

FCC Mail Room

Commission's Secretary/Office of the Secretary
 Federal Communications Commission
 445 12th Street, SW
 Washington, DC 20554

Attn: CGB Room 3-B431

Re: #47 C.F. R. § 79.1 (d) and 47 C.F.R. § 79.1 (f)
 CliffDweller Productions, LLC dba Travel Guide New Mexico (program title "Travel Guide New Mexico") Petition for EXEMPTION from Closed Captioning Requirement.

To Whom it May Concern:

As owner of CliffDweller Productions, LLC, dba Travel Guide New Mexico, please note our request to PETITION for EXEMPTION from CLOSED CAPTIONING requirement for our company. In our opinion, the evidence overwhelmingly shows an exemption be granted as a result of UNDUE FINANCIAL BURDEN IMPOSED BY CAPTIONING REQUIREMENTS.

We submit the following evidence of EXEMPTION from CLOSED CAPTIONING requirements:

1. 2008 Corporate Balance Sheet and Profit and Loss Statement – Programming provided by program provider with annual gross revenues below three million dollars.
2. Statement of Business Purpose – Describes programming provided by program provider as a local advertisement for local homebuilders and homebuilding related suppliers.
3. Statement of Burden imposed by captioning requirement.

I welcome any inquiries the F.C.C. may have to help our company obtain the exemption we need to continue in business.

Sincerely,


 Richard D. Holcomb
 Owner

Travel Guide New Mexico • CliffDweller Creative • HomeBuilders' Gallery

Declaration:

I, Richard D. Holcomb, am Owner of CliffDweller Productions, LLC, dba Travel Guide New Mexico, and I have reviewed the Petition for Exemption for Closed Captioning Requirements filed on behalf of Travel Guide New Mexico's program, "Travel Guide New Mexico" in this matter, and, upon information and belief, believe the statements regarding our organization and Travel Guide New Mexico program to be true and accurate.



Richard D. Holcomb, Owner

6/24/09
Date



Closed Captioning Compliance Statement

CliffDweller Productions, LLC, dba Travel Guide New Mexico, certifies to KTSM-TV, El Paso, TX/Las Cruces, New Mexico that the broadcast by the Station of our weekly program, Travel Guide New Mexico, is exempt from the closed captioning requirements of the Federal Communications Commission (47 CFR § 79.1) under the § 79.1(d)(8) exemption for "locally produced and distributed non-news programming with no repeat value" because the weekly program:

- is not news programming;
- is of specific local interest to residents of the Station's service area;
- is not repeated or redistributed; and
- is not scripted so that electronic news room closed captioning would be unavailable.

If there is any change in the above information, we will provide immediate written notice to the Station.

CliffDweller Productions, LLC

A handwritten signature in black ink, appearing to read "Richard D. Holcomb", written over a horizontal line.

[Richard D. Holcomb, Owner]

Dated: _____

6/24/09

**CERTIFICATION TO TELEVISION STATION
OF PROGRAM COMPLIANCE WITH FCC
CLOSED CAPTIONING REQUIREMENTS**

Client: CliffDweller Productions, LLC, dba Tavel Guide New Mexico

Name of Program: Travel Guide New Mexico

Television Station: KRQE – Albuquerque/Santa Fe, NM

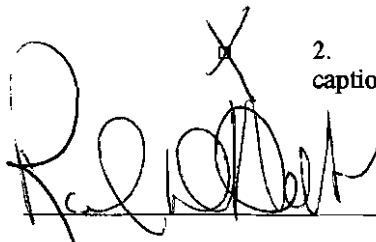
The undersigned hereby certifies compliance with Federal Communications Commission closed captioning requirements for new programming (check A or B):

- ☐ A. The program mentioned above is closed captioned in compliance with FCC requirements.
- ☐ B. The program mentioned above is not closed captioned (check 1 or 2):
- ☐ 1. The FCC granted a waiver on _____ that remains in effect until _____.

(or)

- ☒ 2. The client requested a waiver from the FCC closed captioning requirements on 06-21-09

Sign:



Name:

Richard D. Holcomb

Title:

Owner

Date:

June 22, 2009

Office of the Secretary
Federal Communications Commission
Attention: CGB Room 3-B431
445 12th Street SW
Washington, DC 20554

Petition for Exemption from Closed Captioning Requirements

Introduction

CliffDweller Productions, LLC, dba Travel Guide New Mexico, for profit company, produces a local weekly television program comprised of interview segments with local builders, suppliers and developers involved in new home construction within the greater Albuquerque/Santa Fe metropolitan area.

This program, Travel Guide New Mexico Television, provides valuable information to the local community on travel and tourism opportunities throughout New Mexico.

Travel Guide New Mexico Television is one 30-minute program, with different content weekly, airing at 8:30am every Sunday on KTSM Television, El Paso, TX/Las Cruces, NM, and 10am every Saturday on KRQE Television, Albuquerque/Santa Fe, New Mexico television market. The program is produced by CliffDweller Productions, LLC. The program demographics are primarily people 35+ years of age who are looking for information to help them with in-state travel plans

For the reasons set forth below, CliffDweller Productions, LLC hereby requests an undue burden exemption from the closed captioning rules for Travel Guide New Mexico Television, pursuant to § 79.1(f) of the Commission's rules.

Nature and Cost of Closed Captions

Allied Vaughn in Wisconsin has indicated they will provide roll-up closed captioning for \$730 per 30 minutes and \$842 per 30 minutes for pop-up captioning (personal communication, account representative Joanne Edmundson, June 1, 2009). Transcription for 30 minutes is \$375 additional. Closed Caption Maker of Maryland charges \$10/minute plus \$50 plus \$2/minute for transcript, or a total of \$410 per 30 minutes. A New York company, Elrom will close caption a 30minute program of \$250 including transcription but will not accept subtitles as a substitute for closed captioning.

Impact on the Operation of the Program Provider

The total cost of producing and airing the Travel Guide New Mexico television programs is expected to be over \$800,000 annually, approximately 1/2 the total revenues received from advertisers. We estimate the cost of closed captioning at approximately \$850 per program or \$1,600 per week for a total of \$83,200 per year. This does not include plans to expand the program outside of the New Mexico borders within six months, which would bring the annual cost to \$132,000 or increasing total cost of production and airing of the three programs to over \$900,000 per year.

Our current advertisers would find the additional cost of producing the programs too great to bare the additional costs and as such would force us to cease our business operations. Program participants are looking for a ROI on their advertising investment which would be negated by increased costs involved in closed captioning. The increased cost of closed captioning would price our products out of the realm of what tourism based advertisers would consider a reasonable cost would seek other, and more reasonably priced, forms of advertising to

promote their tourism locations and services. The only means of revenue CliffDweller Productions, LLC has is the advertising revenue generated from these sponsors. The Company has no other business interests outside of this venture and would therefore be forced to cease business operations.

Financial Resources of the Program Provider

KTSM and KRQE have informed us that they are not in a position to take on the responsibility for closed captioning of the programs and would have to pass that expense onto CliffDweller Productions, LLC, who would have to outsource closed captioning to a outside vendor since the company does not have in-house production facilities or the expertise to take on this additional burden.

Type of Operations of the Program Provider

CliffDweller Productions, LLC, is a sales and marketing company engaged in the for profit business of providing alternative advertising sources for companies involved in the tourism and lodging industry. The company uses purchased television time to broadcast targeted market programs in a non-scripted interview format that gives these advertisers the opportunities to showcase their businesses and locations in the hope that viewers will book lodging and/or visit their respective locations. In addition, the same format is used to show and describe the services available from various suppliers who deal with a wide variety of products including, but not limited to, hotels, gasoline stations, casinos, not-for-profit venues, cities, villages, towns and many more.

The nature of the program gives these companies and communities the opportunity to showcase their products in a format not available anywhere else and in a format of greater length than the standard :30 second commercial.

The unscripted nature of the programs and the fact that new programs are produced each week offers a very viable alternative for showcasing their respective produce or community and the added burden and cost of closed captioning would eliminate this “lead source” from their marketing plans.

Other factors

Petitioner believes that the local, non-news exemption to the closed captioning rules also applies to Travel Guide New Mexico Television.¹ As noted above, the program is produced and distributed locally, and the content is of great interest to the viewing community in helping them select an in-state location or event to visit that would fit their lifestyle. The episodes are not news, they do not have repeat value, and the electronic newsroom technique is not available. Notwithstanding the applicability of the exemption, we have filed this petition in abundance of caution and for the purpose of establishing certainty.

Conclusion

While CliffDweller Productions, LLC appreciates the intent of giving greater programming access to the hearing-impaired public, the closed caption requirement will place an undue financial burden on the company, making future programming impossible and thus depriving the general public of the valuable information provided within this unique and

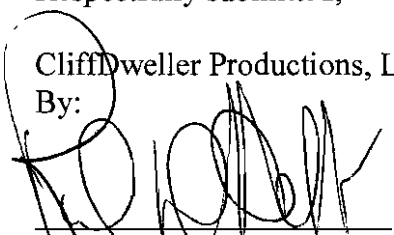
¹ This exemption is self-implementing, and therefore Petitioner notes its applicability without expecting or requesting FCC action on it.

specialized broadcast. As shown by this Petition and its attachments, the Commission should grant a waiver of the closed captioning requirements in this case, because requiring closed captioning would create an undue burden. The costs of captioning would be excessively high and would have a significant impact on Petitioner's operations. The Petitioner's type of operations and financial resources are different in kind and magnitude from a mainstream programming provider. Because of the significant difficulty and expense of providing closed captions, a waiver under § 79.1(f) is warranted. If more information is needed, please contact me at the address provided below.

Respectfully submitted,

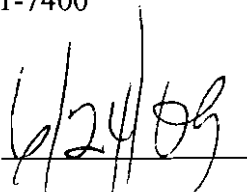
Cliff Dweller Productions, LLC

By:



Richard D. Holcomb, Owner
3791 Southern Blvd, SE Ste 101
Rio Rancho, NM 87124
505-891-7400

Dated:



DC: 1984544-1

10:48 AM

06/24/09

Accrual Basis

HomeBuilders' Gallery

Balance Sheet

As of December 31, 2008

	Dec 31, 08
ASSETS	
Current Assets	
Checking/Savings	
Compass Bank (6884 Cliff) (Compass Bank (6884 Cliff))	54,067.29
Tax Savings Acct 8265	281.82
Total Checking/Savings	54,349.11
Accounts Receivable	
Accounts Receivable	339,639.20
Total Accounts Receivable	339,639.20
Other Current Assets	
Due from "Spirits of the Mesa"	1,883.43
Due from HBGR	597.48
Undeposited Funds	113.35
Total Other Current Assets	2,594.26
Total Current Assets	396,582.57
Fixed Assets	
Accumulated Depreciation	-145,696.44
Computer Software (>\$500)	6,357.49
Furniture & Fixtures (>\$500)	19,427.78
Leasehold Improvements (Office Buildout Expenses)	52,455.53
Office Equipment (>\$500)	
Computers Equipment (>\$500) (Laptop Computer Purchase)	23,374.41
Office Equipment (>\$500) - Other	45,414.49
Total Office Equipment (>\$500)	68,788.90
TV Production Equipment (>\$500)	30,167.96
Vehicles	31,941.31
Total Fixed Assets	63,442.53
Other Assets	
Accumulated Amortization	-5,027.71
Organizational Costs	5,027.71
Total Other Assets	0.00
TOTAL ASSETS	460,025.10
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	309,166.46
Total Accounts Payable	309,166.46
Other Current Liabilities	
401-K Pension Plan Payable (401(k) Contributions)	187.50
Compass Bank Loan # 90665	42,433.10
Compass Car Loan#56090320 (Town & Ctry Car Loan Feb 08)	17,145.76
Compass Line of Credit 6993-1	41,485.25
Payroll Liabilities	-17.72
Sales Tax Payable	25,076.34
Total Other Current Liabilities	126,310.23
Total Current Liabilities	435,476.69
Long Term Liabilities	
PCG Telephone Note Payable	7,661.47
Total Long Term Liabilities	7,661.47
Total Liabilities	443,138.16
Equity	
R. Holcomb Equity (Partner One Equity)	
Member Capital - Holcomb	-28,215.08

10:48 AM

06/24/09

Accrual Basis

HomeBuilders' Gallery

Balance Sheet

As of December 31, 2008

	Dec 31, 08
R Holcomb-Trans to TaxAcct 8265 (R Holcomb-Trans to TaxAcct 82)	-10,991.58
R. Holcomb 401K Contributions	-13,587.98
R. Holcomb Draws (R. Holcomb Draws)	-47,112.35
Total R. Holcomb Equity (Partner One Equity)	-99,906.99
Retained Earnings	101,146.49
Net Income	15,647.44
Total Equity	16,886.94
TOTAL LIABILITIES & EQUITY	460,025.10